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ENDORSED
FILED
ALAMEDA COUNTY

JUN 07 2012

CLERK OF THE SUPERIOR COURT
By DOLORES J. SILVA
Deputy

11
12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF ALAMEDA
14 UNLIMITED CIVIL JURISDICTION

15 ANTHONY E. HELD, PH.D., P.E.

16 Plaintiff,

17 v.

18 ALMAR SALES CO., INC.; AMSCAN
19 HOLDINGS, INC.; EASTER UNLIMITED,
20 INC.; EVERSTAR, US; FORUM
21 NOVELTIES, INC.; LEG AVENUE INC.;
22 LOVIN' ENTERPRISES, INC.; MORBID
23 ENTERPRISES, LLC; PAPER MAGIC
24 GROUP, INC.; RG COSTUMES &
25 ACCESSORIES, INC.; and DOES 1-150,
26 inclusive,

27 Defendants.

Case No. HG12633575

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

(Cal. Health & Safety Code § 25249.6 et seq.)

28
BY FAX

1 NATURE OF THE ACTION

2 1. This Complaint is a representative action brought by plaintiff ANTHONY E.
3 HELD, PH.D., P.E., in the public interest of the citizens of the State of California, to enforce the
4 People’s right to be informed of the presence of di(2-ethylhexyl)phthalate (“DEHP”), lead and/or
5 lead compounds (“Lead”), di-n-butyl phthalate (“DBP”), cadmium and/or cadmium compounds
6 (“Cadmium”), arsenic (inorganic arsenic compounds and inorganic oxides)(“Arsenic”), and/or
7 formaldehyde (gas)(“Formaldehyde”), chemicals found in consumer products sold in California.

8 2. By this Complaint, plaintiff seeks to remedy defendants’ continuing failures to
9 warn California citizens about their exposure to DEHP, Lead, DBP, Cadmium, Arsenic, and/or
10 Formaldehyde, present in or on certain Halloween costumes, Halloween costume accessories
11 (including wigs, masks, gloves, footwear, belts, bags, hats, costume props, hosiery, and weapons
12 and jewelry intended to accessorize a costume (excluding makeup)), and Halloween indoor and
13 outdoor home décor and games (including Halloween candy bowls, lawn, wall, door and table
14 ornaments and lights, decorative spiders/webs, lighting, ghosts, witches, goblins, skeletons, bats,
15 cats and tombstones), that defendants manufacture, import, distribute and/or offer for sale to
16 consumers throughout the State of California.

17 3. Under California’s Safe Drinking Water and Toxic Enforcement Act of 1986,
18 California Health & Safety Code § 25249.6 *et seq.* (“Proposition 65”), “No person in the course
19 of doing business shall knowingly and intentionally expose any individual to a chemical known
20 to the state to cause cancer or reproductive toxicity without first giving clear and reasonable
21 warning to such individual. . . .” (*Cal. Health & Safety Code § 25249.6.*)

22 4. On February 27, 1987, California identified and listed lead as a chemical known to
23 cause birth defects and other reproductive harm. Lead became subject to the warning requirement
24 one year later and was therefore subject to the “clear and reasonable warning” requirements of
25 Proposition 65, beginning on February 27, 1988. (Title 27 of the California Code of Regulation
26 (“CCR”) § 27001 (c); Cal. Health & Safety Code § 25249.8. & 25249.10(b).)

1 5. On February 27, 1987, California identified and listed arsenic (inorganic arsenic
2 compounds) as a chemical known to cause cancer. Arsenic (inorganic arsenic compounds)
3 became subject to the warning requirement one year later and was therefore subject to the “clear
4 and reasonable warning” requirements of Proposition 65, beginning on February 27, 1988. (Title
5 27 of the California Code of Regulation (“CCR”) § 27001 (c); Cal. Health & Safety Code §
6 25249.8. & 25249.10(b).)

7 6. On October 1, 1987, California identified and listed cadmium and cadmium
8 compounds as a chemical known to cause cancer. Cadmium and cadmium compounds became
9 subject to the warning requirement one year later and were therefore subject to the “clear and
10 reasonable warning” requirements of Proposition 65, beginning on October 1, 1988. (Title 27 of
11 the California Code of Regulation (“CCR”) § 27001 (c); Cal. Health & Safety Code § 25249.8.
12 & 25249.10(b).)

13 7. On January 1, 1988, California identified and listed formaldehyde (gas) as a
14 chemical known to cause cancer. Formaldehyde became subject to the warning requirement one
15 year later and was therefore subject to the “clear and reasonable warning” requirements of
16 Proposition 65, beginning on January 1, 1989. (Title 27 of the California Code of Regulation
17 (“CCR”) § 27001 (c); Cal. Health & Safety Code § 25249.8. & 25249.10(b).)

18 8. On October 1, 1992, California identified and listed lead and lead compounds as
19 chemicals known to cause cancer. Lead and lead compounds became subject to the warning
20 requirement one year later and were therefore subject to the “clear and reasonable warning”
21 requirements of Proposition 65, beginning on October 1, 1993. (Title 27 of the California Code
22 of Regulation (“CCR”) § 27001 (c); Cal. Health & Safety Code § 25249.8. & 25249.10(b).)

23 9. On May 1, 1997, California identified and listed cadmium as a chemical known to
24 cause birth defects and other reproductive harm. Cadmium became subject to the warning
25 requirement one year later and was, therefore, subject to the “clear and reasonable warning”
26 requirements of Proposition 65, beginning on May 1, 1998. (27 CCR § 27001 (c); Cal. Health &
27 Safety Code §§ 25249.8 & 25249.10(b).)

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1 10. On May 1, 1997, California identified and listed arsenic (inorganic oxides) as a
2 chemical known to cause birth defects and reproductive harm. Arsenic (inorganic oxides)
3 became subject to the warning requirement one year later and was therefore subject to the “clear
4 and reasonable warning” requirements of Proposition 65, beginning on May 1, 1998. (Title 27 of
5 the California Code of Regulation (“CCR”) § 27001 (c); Cal. Health & Safety Code § 25249.8.
6 & 25249.10(b).)

7 11. On October 23, 2003, California identified and listed DEHP as a chemical known
8 to cause birth defects and other reproductive harm. DEHP became subject to the warning
9 requirement one year later and was, therefore, subject to the “clear and reasonable warning”
10 requirements of Proposition 65, beginning on October 23, 2004. (27 CCR § 27001 (c); Cal.
11 Health & Safety Code § 25249.8. & 25249.10(b).)

12 12. On December 2, 2005, California identified and listed DBP as a chemical known
13 to cause birth defects and other reproductive harm. DBP became subject to the warning
14 requirement one year later and was, therefore, subject to the “clear and reasonable warning”
15 requirements of Proposition 65, beginning on December 2, 2006. (27 CCR § 27001 (c); Cal.
16 Health & Safety Code §§ 25249.8 & 25249.10(b).)

17 13. Defendants manufacture, import, distribute, and/or sell Halloween costumes,
18 Halloween costume accessories, and Halloween indoor and outdoor home décor and games,
19 containing DEHP, Lead, DBP, Cadmium, Arsenic, and/or Formaldehyde, as follows:

20 a. Defendant ALMAR SALES CO., INC. manufactures, imports,
21 distributes, and/or sells Halloween costume accessories containing DEHP
22 including, but not limited to *Fierce & Fabulous Studded Gloves, PCG181, YC-*
23 *1106-4469 (#0 24576 86632 7);*

24 b. Defendant AMSCAN HOLDINGS, INC. manufactures, imports,
25 distributes, and/or sells Halloween costume accessories containing DEHP
26 including, but not limited to, *Deluxe Pirate Boot Tops, #7280 (#757565 127122);*

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1 c. Defendant EASTER UNLIMITED, INC. manufactures, imports,
2 distributes, and/or sells Halloween costumes containing DEHP including, but not
3 limited to, *Spirit Meter's Running Adult Costume, #01023142* and *Spirit Sexy*
4 *Scottie Adult Costume, Item No. 120614M, #09060CGP35, #01022953*;

5 d. Defendant EVERSTAR, US manufactures, imports, distributes,
6 and/or sells Halloween home décor containing DEHP including, but not limited
7 to, *70-count Light Set, #65-343A (#7 64878 65343 9)*;

8 e. Defendant FORUM NOVELTIES, INC. manufactures, imports,
9 distributes, and/or sells Halloween costumes, Halloween costume accessories, and
10 Halloween indoor and outdoor décor containing DEHP, Lead, DBP, Cadmium,
11 Arsenic, and/or Formaldehyde;

12 f. Defendant LEG AVENUE INC. manufactures, imports, distributes,
13 and/or sells Halloween costumes containing DEHP including, but not limited to,
14 *Leg Avenue Officer Bombshell 4PC. Costume, Style: 83619* and Halloween
15 costume accessories containing DEHP including, but not limited to, *Leg Avenue*
16 *Gangster Double Gun Zipper Holster, Style A1917 (#7 14718 43640 1)*;

17 g. Defendant LOVIN' ENTERPRISES, INC. manufactures, imports,
18 distributes, and/or sells Halloween costumes containing DEHP including, but not
19 limited to, *Dreamgirl "The Dirty Double" Costume, Style No. 5868X (#8 76802*
20 *08124 6)*;

21 h. Defendant MORBID ENTERPRISES, LLC manufactures, imports,
22 distributes, and/or sells Halloween costumes, Halloween costume accessories, and
23 Halloween indoor and outdoor décor containing DEHP, Lead, DBP, Cadmium,
24 Arsenic, and/or Formaldehyde;

25 i. Defendant PAPER MAGIC GROUP, INC. manufactures, imports,
26 distributes, and/or sells Halloween games containing DEHP including, but not
27 limited to, *Spider Ring Toss, #6529180 (#0 37693 02032 9)*; and
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j. Defendant RG COSTUMES & ACCESSORIES, INC manufactures, imports, distributes, and/or sells Halloween costume accessories containing DEHP including, but not limited to, *Santa's Belt, Item No. 82111 (#0 54225 82111 7)*.

14. All Halloween costumes, Halloween costume accessories, and Halloween indoor and outdoor home décor and games, containing DEHP, Lead, DBP, Cadmium, Arsenic, and/or Formaldehyde, as listed above in paragraphs 13(a) through (j) above, shall hereinafter be referred to as the "PRODUCTS." As to each specific defendant, however, Products shall refer only to those specific products listed for each specific defendant in paragraphs 13(a) through (j) above.

15. DEHP, Lead, DBP, Cadmium, Arsenic, and Formaldehyde shall collectively hereinafter be referred to as the "Listed Chemicals." As to each specific defendant, however, Listed Chemicals shall refer only to the specific chemical(s) listed for each specific defendant in paragraphs 13(a) through (j) above.

16. Defendants' failure to warn adequately, if at all, a variety of California consumers, businesses, employees, and other persons not covered by California's Occupational Safety Health Act, Labor Code section 6300 *et seq.*, in the State of California about their exposure to the Listed Chemicals in conjunction with defendants' distribution, importation, manufacturing, and sale of the PRODUCTS is a violation of Proposition 65 and subjects defendants to enjoinder of such conduct as well as civil penalties for each violation.

17. For defendants' violations of Proposition 65, plaintiff seeks preliminary injunctive and permanent injunctive relief to compel defendants to provide purchasers or users of the PRODUCTS with the required warning regarding the health hazards of the Listed Chemicals. (*Cal. Health & Safety Code § 25249.7(a)*.)

18. Plaintiff also seeks civil penalties against defendants for their violations of Proposition 65, as provided for by California Health & Safety Code § 25249.7(b).

PARTIES

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2 19. Plaintiff ANTHONY E. HELD, PH.D., P.E. is a citizen of the State of California
3 who is dedicated to protecting the health of California citizens through the elimination or
4 reduction of toxic exposures from consumer and commercial products, and brings this action in
5 the public interest pursuant to California Health & Safety Code § 25249.7.

6 20. Defendant ALMAR SALES CO., INC. (“ALMAR”) is a person doing business
7 within the meaning of California Health & Safety Code § 25249.11.

8 21. Defendant ALMAR manufactures, imports, distributes, and/or offers the
9 PRODUCTS for sale or use in the State of California or implies by its conduct that it
10 manufactures, imports, distributes, and/or offers the PRODUCTS for sale or use in the State of
11 California.

12 22. Defendant AMSCAN HOLDINGS, INC. (“AMSCAN”) is a person doing business
13 within the meaning of California Health & Safety Code § 25249.11.

14 23. Defendant AMSCAN manufactures, imports, distributes, and/or offers the
15 PRODUCTS for sale or use in the State of California or implies by its conduct that it
16 manufactures, imports, distributes, and/or offers the PRODUCTS for sale or use in the State of
17 California.

18 24. Defendant EASTER UNLIMITED, INC. (“EASTER”) is a person doing business
19 within the meaning of California Health & Safety Code § 25249.11.

20 25. Defendant EASTER manufactures, imports, distributes, and/or offers the
21 PRODUCTS for sale or use in the State of California or implies by its conduct that it
22 manufactures, imports, distributes, and/or offers the PRODUCTS for sale or use in the State of
23 California.

24 26. Defendant EVERSTAR, US (“EVERSTAR”) is a person doing business within the
25 meaning of California Health & Safety Code § 25249.11.

26 27. Defendant EVERSTAR manufactures, imports, distributes, and/or offers the
27 PRODUCTS for sale or use in the State of California or implies by its conduct that it
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1 manufactures, imports, distributes, and/or offers the PRODUCTS for sale or use in the State of
2 California.

3 28. Defendant FORUM NOVELTIES, INC. ("FORUM") is a person doing business
4 within the meaning of California Health & Safety Code § 25249.11.

5 29. Defendant FORUM manufactures, imports, distributes, and/or offers the
6 PRODUCTS for sale or use in the State of California or implies by its conduct that it
7 manufactures, imports, distributes, and/or offers the PRODUCTS for sale or use in the State of
8 California.

9 30. Defendant LEG AVENUE INC. ("LEG") is a person doing business within the
10 meaning of California Health & Safety Code § 25249.11.

11 31. Defendant LEG manufactures, imports, distributes, and/or offers the PRODUCTS
12 for sale or use in the State of California or implies by its conduct that it manufactures, imports,
13 distributes, and/or offers the PRODUCTS for sale or use in the State of California.

14 32. Defendant LOVIN' ENTERPRISES, INC. ("LOVIN'") is a person doing business
15 within the meaning of California Health & Safety Code § 25249.11.

16 33. Defendant LOVIN' manufactures, imports, distributes, and/or offers the
17 PRODUCTS for sale or use in the State of California or implies by its conduct that it
18 manufactures, imports, distributes, and/or offers the PRODUCTS for sale or use in the State of
19 California.

20 34. Defendant MORBID ENTERPRISES, LLC ("MORBID") is a person doing
21 business within the meaning of California Health & Safety Code § 25249.11.

22 35. Defendant MORBID manufactures, imports, distributes, and/or offers the
23 PRODUCTS for sale or use in the State of California or implies by its conduct that it
24 manufactures, imports, distributes, and/or offers the PRODUCTS for sale or use in the State of
25 California.

26 36. Defendant PAPER MAGIC GROUP, INC. ("PAPER") is a person doing business
27 within the meaning of California Health & Safety Code § 25249.11.

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1 37. Defendant PAPER manufactures, imports, distributes, and/or offers the
2 PRODUCTS for sale or use in the State of California or implies by its conduct that it
3 manufactures, imports, distributes, and/or offers the PRODUCTS for sale or use in the State of
4 California.

5 38. Defendant RG COSTUMES & ACCESSORIES, INC. (“RG COSTUMES”) is a
6 person doing business within the meaning of California Health & Safety Code § 25249.11.

7 39. Defendant RG COSTUMES manufactures, imports, distributes, and/or offers the
8 PRODUCTS for sale or use in the State of California or implies by its conduct that it
9 manufactures, imports, distributes, and/or offers the PRODUCTS for sale or use in the State of
10 California.

11 40. Defendants DOES 1-50 (“MANUFACTURER DEFENDANTS”) are each persons
12 doing business within the meaning of California Health & Safety Code § 25249.11.

13 41. MANUFACTURER DEFENDANTS engage in the process of research, testing,
14 designing, assembling, fabricating and/or manufacturing, or imply by their conduct that they
15 engage in the process of research, testing, designing, assembling, fabricating and/or
16 manufacturing.

17 42. Defendants DOES 51-100 (“DISTRIBUTOR DEFENDANTS”) are each persons
18 doing business within the meaning of California Health & Safety Code § 25249.11.

19 43. DISTRIBUTOR DEFENDANTS distribute, exchange, transfer, process and/or
20 transport one or more of the PRODUCTS to individuals, businesses or retailers for sale or use in
21 the State of California.

22 44. Defendants DOES 101-150 (“RETAIL DEFENDANTS”) are each persons doing
23 business within the meaning of California Health & Safety Code § 25249.11.

24 45. RETAIL DEFENDANTS offer the PRODUCTS for sale to individuals in the State
25 of California and, in some circumstances, may also be manufacturers and/or distributors.
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1 46. At this time, the true names of Defendants DOES 1 through 150, inclusive, are
2 unknown to plaintiff, who therefore sues said defendants by their fictitious name pursuant to
3 Code of Civil Procedure § 474. Plaintiff is informed and believes, and on that basis alleges, that
4 each of the fictitiously named defendants is responsible for the acts and occurrences herein
5 alleged. When ascertained, their true names shall be reflected in an amended complaint.

6 47. ALMAR, AMSCAN, EASTER, EVERSTAR, FORUM, LEG, LOVIN',
7 MORBID, PAPER, RG COSTUMES, MANUFACTURER DEFENDANTS, DISTRIBUTOR
8 DEFENDANTS, and RETAIL DEFENDANTS shall, where appropriate, collectively be referred
9 to hereinafter as "DEFENDANTS."

10 **VENUE AND JURISDICTION**

11 48. Venue is proper in the Alameda County Superior Court, pursuant to Code of Civil
12 Procedure §§ 394, 395, 395.5, because this Court is a court of competent jurisdiction, because
13 one or more instances of wrongful conduct occurred, and continues to occur, in the County of
14 Alameda and/or because DEFENDANTS conducted, and continue to conduct, business in this
15 County with respect to the PRODUCTS.

16 49. The California Superior Court has jurisdiction over this action pursuant to
17 California Constitution Article VI, § 10, which grants the Superior Court "original jurisdiction in
18 all causes except those given by statute to other trial courts." The statute under which this action
19 is brought does not specify any other basis of subject matter jurisdiction.

20 50. The California Superior Court has jurisdiction over DEFENDANTS based on
21 plaintiff's information and good faith belief that each defendant is a person, firm, corporation or
22 association that either are citizens of the State of California, have sufficient minimum contacts in
23 the State of California, or otherwise purposefully avail themselves of the California market.
24 DEFENDANTS' purposeful availment renders the exercise of personal jurisdiction by California
25 courts consistent with traditional notions of fair play and substantial justice.

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1 FIRST CAUSE OF ACTION

2 (Violation of Proposition 65 - Against All Defendants)

3 51. Plaintiff realleges and incorporates by reference, as if fully set forth herein,
4 Paragraphs 1 through 50, inclusive.

5 52. The citizens of the State of California have expressly stated in the Safe Drinking
6 Water and Toxic Enforcement Act of 1986, California Health & Safety Code § 25249.5, *et seq.*
7 (“Proposition 65”) that they must be informed “about exposures to chemicals that cause cancer,
8 birth defects and other reproductive harm.” (*Cal. Health & Safety Code § 25249.6.*)

9 53. Proposition 65 states, “[n]o person in the course of doing business shall knowingly
10 and intentionally expose any individual to a chemical known to the state to cause cancer or
11 reproductive toxicity without first giving clear and reasonable warning to such individual....”
12 (*Id.*)

13 54. On or about October 28, 2011, sixty-day notices of violation, together with the
14 requisite certificates of merit, were provided to FORUM, MORBID, and various public
15 enforcement agencies stating that as a result of their sales of the PRODUCTS, purchasers and
16 users in the State of California were being exposed to DEHP, Lead, DBP, Cadmium, Arsenic,
17 and/or Formaldehyde resulting from the reasonably foreseeable uses of the PRODUCTS, without
18 the individual purchasers and users first having been provided with a “clear and reasonable
19 warning” regarding such toxic exposures.

20 55. On or about December 13, 2011, sixty-day notices of violation, together with the
21 requisite certificates of merit, was provided to EASTER, LEG, LOVIN’, RG COSTUMES, and
22 various public enforcement agencies stating that as a result of their sales of the PRODUCTS,
23 purchasers and users in the State of California were being exposed to DEHP resulting from the
24 reasonably foreseeable uses of the PRODUCTS, without the individual purchasers and users first
25 having been provided with a “clear and reasonable warning” regarding such toxic exposures.

26 56. On or about January 11, 2012, a sixty-day notice of violation, together with the
27 requisite certificate of merit, was provided to PAPER and various public enforcement agencies
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1 stating that as a result of PAPER's sales of the PRODUCTS, purchasers and users in the State of
2 California were being exposed to DEHP resulting from the reasonably foreseeable uses of the
3 PRODUCTS, without the individual purchasers and users first having been provided with a
4 "clear and reasonable warning" regarding such toxic exposures.

5 57. On or about January 31, 2012, a sixty-day notice of violation, together with the
6 requisite certificate of merit, was provided to AMSCAN and various public enforcement
7 agencies stating that as a result of AMSCAN's sales of the PRODUCTS, purchasers and users in
8 the State of California were being exposed to DEHP resulting from the reasonably foreseeable
9 uses of the PRODUCTS, without the individual purchasers and users first having been provided
10 with a "clear and reasonable warning" regarding such toxic exposures.

11 58. On or about February 28, 2012, a sixty-day notice of violation, together with the
12 requisite certificate of merit, was provided to EVERSTAR and various public enforcement
13 agencies stating that as a result of EVERSTAR's sales of the PRODUCTS, purchasers and users
14 in the State of California were being exposed to DEHP resulting from the reasonably foreseeable
15 uses of the PRODUCTS, without the individual purchasers and users first having been provided
16 with a "clear and reasonable warning" regarding such toxic exposures.

17 59. On or about March 8, 2012, a sixty-day notice of violation, together with the
18 requisite certificate of merit, was provided to ALMAR and various public enforcement agencies
19 stating that as a result of ALMAR's sales of the PRODUCTS, purchasers and users in the State
20 of California were being exposed to DEHP resulting from the reasonably foreseeable uses of the
21 PRODUCTS, without the individual purchasers and users first having been provided with a
22 "clear and reasonable warning" regarding such toxic exposures.

23 60. DEFENDANTS have engaged in the manufacture, distribution and/or offering of
24 the PRODUCTS for sale or use in violation of California Health & Safety Code § 25249.6 and
25 DEFENDANTS' manufacture, distribution and/or offering of the PRODUCTS for sale or use in
26 violation of California Health & Safety Code § 25249.6 has continued to occur beyond
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1 DEFENDANTS' receipt of plaintiff's sixty-day notice of violation. Plaintiff further alleges and
2 believes that such violations will continue to occur into the future.

3 61. After receipt of the claims asserted in the above-referenced sixty-day notices of
4 violation (paragraphs 54 through 59), the appropriate public enforcement agencies have failed to
5 commence and diligently prosecute a cause of action against DEFENDANTS under Proposition
6 65.

7 62. The PRODUCTS manufactured, imported, distributed, and/or offered for sale or
8 use in California by DEFENDANTS contained the Listed Chemicals above the allowable state
9 limits.

10 63. DEFENDANTS knew or should have known that the PRODUCTS manufactured,
11 imported, distributed, and/or offered for sale or use by DEFENDANTS in California contained
12 the Listed Chemicals.

13 64. The Listed Chemicals were present in or on the PRODUCTS in such a way as to
14 expose individuals to the Listed Chemicals through dermal contact, ingestion and/or inhalation
15 during the reasonably foreseeable use of the PRODUCTS.

16 65. The normal and reasonably foreseeable use of the PRODUCTS has caused and
17 continues to cause consumer and workplace exposures to the Listed Chemicals, as such exposure
18 is defined by 27 California Code of Regulations ("CCR") § 25602(b).

19 66. DEFENDANTS had knowledge that the normal and reasonably foreseeable use of
20 the PRODUCTS would expose individuals to the Listed Chemicals through dermal contact,
21 ingestion and/or inhalation.

22 67. DEFENDANTS intended that such exposures to the Listed Chemicals from the
23 reasonably foreseeable use of the PRODUCTS would occur by their deliberate, non-accidental
24 participation in the manufacture, importation, distribution and/or offer for sale or use of
25 PRODUCTS to individuals in the State of California.

26 68. DEFENDANTS failed to provide a "clear and reasonable warning" to those
27 consumers and/or other individuals in the State of California who were or who could become
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1 exposed to the Listed Chemicals through dermal contact, ingestion and/or inhalation during the
2 reasonably foreseeable use of the PRODUCTS.

3 69. Contrary to the express policy and statutory prohibition of Proposition 65, enacted
4 directly by California voters, individuals exposed to the Listed Chemicals through dermal
5 contact, ingestion and/or inhalation resulting from the reasonably foreseeable use of the
6 PRODUCTS, sold by DEFENDANTS without a “clear and reasonable warning,” have suffered,
7 and continue to suffer, irreparable harm, for which harm they have no plain, speedy or adequate
8 remedy at law.

9 70. As a consequence of the above-described acts, DEFENDANTS are each liable for
10 a maximum civil penalty of \$2,500 per day for each violation pursuant to California Health &
11 Safety Code § 25249.7(b).

12 71. As a consequence of the above-described acts, California Health & Safety Code
13 § 25249.7(a) also specifically authorizes the Court to grant injunctive relief against
14 DEFENDANTS.

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PRAYER FOR RELIEF

Wherefore, plaintiff prays for judgment against DEFENDANTS as follows:

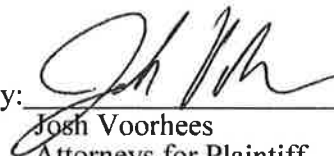
1. That the Court, pursuant to California Health & Safety Code § 25249.7(b), assess civil penalties against DEFENDANTS in the amount of \$2,500 per day for each violation alleged herein;
2. That the Court, pursuant to California Health & Safety Code § 25249.7(a), preliminarily and permanently enjoin DEFENDANTS from manufacturing, distributing or offering the PRODUCTS for sale or use in California, without providing “clear and reasonable warnings” as defined by 27 CCR § 25601, as to the harms associated with exposures to the Listed Chemicals;
3. That the Court grant plaintiff his reasonable attorneys’ fees and costs of suit; and
4. That the Court grant such other and further relief as may be just and proper.

Dated: June 6, 2012

Respectfully Submitted,

THE CHANLER GROUP

By:



Josh Voorhees
Attorneys for Plaintiff
ANTHONY E. HELD, PH.D., P.E.,